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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-562

12 **LUALHATI Z. COLGROVE,**
13 **a.k.a., LUALHATI ZERNA COLGROVE**
14 **1908 Vanderbilt Lane, Unit B**
15 **Redondo Beach, CA 90278-2952**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **Registered Nurse License No. 343237**

17 Respondent.

18 **FINDINGS OF FACT**

19 1. On or about March 21, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs, filed Accusation No. 2012-562 against Lualhati Z. Colgrove, a.k.a. Lualhati
22 Zerna Colgrove ("Respondent") before the Board of Registered Nursing. (Accusation attached as
23 Exhibit A.)

24 2. On or about April 30, 1982, the Board of Registered Nursing ("Board") issued
25 Registered Nurse License No. 343237 to Respondent. The Registered Nurse License was in full
26 force and effect at all times relevant to the charges brought in Accusation No. 2012-562 and will
27 expire on February 28, 2014, unless renewed.

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1 3. On or about March 21, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2012-562, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is:

7 1908 Vanderbilt Lane, Unit B
8 Redondo Beach, CA 90278.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about April 9, 2012, the agency received U.S. Postal Service Domestic Return
13 Receipt for the aforementioned documents sent to Respondent via certified mail, signed by
14 Respondent on March 29, 2012.

15 6. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts
18 of the accusation not expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
20 may nevertheless grant a hearing.

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
22 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No.
23 2012-562.

24 8. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

29 9. Pursuant to its authority under Government Code section 11520, the Board finds
30 Respondent is in default. The Board will take action without further hearing and, based on the
31 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 2012-562, finds
3 that the charges and allegations in Accusation No. 2012-562, are separately and severally, found
4 to be true and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$7,819.50 as of May 18, 2012.

8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Lualhati Z. Colgrove, a.k.a.
10 Lualhati Zerna Colgrove has subjected her Registered Nurse License No. 343237 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
13 Nurse License based upon the following violations alleged in the Accusation which are supported
14 by the evidence contained in the Default Decision Evidence Packet in this case.:

15 a. Respondent is subject to disciplinary action under Code sections 490 and 2761,
16 subdivision (f), in conjunction with Code section 2765, in that Respondent was convicted of
17 crimes substantially related to the qualifications, functions or duties of a registered nurse, to wit:
18 On or about November 23, 2009, in the criminal proceeding titled *U.S.A. v. Lualhati Colgrove*
19 (U.S. District Court, Central District of California, 2009, No. CR 07-389-VBF), Respondent was
20 convicted by the Court on her plea of guilty to one felony count in violation of 18 U.S.C. section
21 1349 (conspiracy to commit Health Care Fraud) and one felony count in violation of U.S.C.
22 sections 1347 and 2 (aiding and abetting Health Care Fraud).

23 b. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)
24 on the grounds of unprofessional conduct in that Respondent's actions, as more fully set forth in
25 paragraph 3(a), above, constitute unprofessional conduct per se.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 343237, heretofore issued to Respondent Lualhati Z. Colgrove, a.k.a. Lualhati Zerna Colgrove, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on AUGUST 31, 2012

It is so ORDERED AUGUST 1, 2012

Raymond Mallet

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51112049.DOC
DOJ Matter ID: LA2011600187

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2012-562**

11 **LUALHATI Z. COLGROVE,**
12 **aka LUALHATI ZERNA COLGROVE**
13 **1908 Vanderbilt Lane, Unit B**
Redondo Beach, CA 90278-2952

A C C U S A T I O N

14 **Registered Nurse License No. 343237**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
23 License Number 343237 to Lualhati Z. Colgrove, aka Lualhati Zerna Colgrove ("Respondent").
24 The Registered Nurse License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on February 28, 2014, unless renewed.

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1 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
2 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
3 of guilty, or dismissing the accusation, information or indictment.”

4 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
5 revoke a license on the ground that the licensee has been convicted of a crime substantially
6 related to the qualifications, functions, or duties of the business or profession for which the
7 license was issued.

8 **REGULATORY PROVISION**

9 9. California Code of Regulations, title 16, section 1444 provides, in pertinent part, that
10 a conviction or act shall be considered to be substantially related to the qualifications, functions
11 or duties of a registered nurse if to a substantial degree it evidences the present or potential
12 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
13 welfare.

14 **COST RECOVERY**

15 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime)**

3 11. Respondent is subject to disciplinary action under Code sections 490 and 2761,
4 subdivision (f), in conjunction with Code section 2765, in that Respondent was convicted of a
5 crimes substantially related to the qualifications, functions or duties of a registered nurse, the
6 circumstances are as follows:

7 a. On or about November 23, 2009, in the criminal proceeding titled *U.S.A. v. Luahlhti*
8 *Colgrove* (U.S. District Court, Central District of California, 2009, No. CR 07-389-VBF),
9 Respondent was convicted by the Court on his plea of guilty to one felony count in violation of
10 18 U.S.C. section 1349 (conspiracy to commit Health Care Fraud) and one felony count in
11 violation of 18 U.S.C. sections 1347 and 2 (aiding and abetting Health Care Fraud). The
12 circumstances of the crime are that, from approximately December 2001, and continuing to in or
13 about March 2005, Respondent Colgrove knowingly, willfully and with intent to defraud
14 executed and attempted to execute a scheme to defraud a health care benefit program affecting
15 commerce, that is Medicare, as to material matters and to obtain, by means of material false and
16 fraudulent pretenses, representations, and promises, money and property owned by and under the
17 custody of the Medicare program, all in connection with the delivery of and payment for health
18 care benefits. Respondent Colgrove, for the purpose of executing and attempting to execute the
19 scheme to defraud described above, knowingly and willfully submitted and caused to be
20 submitted to Medicare false and fraudulent claims in the amount of \$8,745.12. Respondent was
21 sentenced to serve 51 months for each count, to be served concurrently. Upon Respondent's
22 release from prison, Respondent will be placed on supervised release for a term of three (3) years.
23 Respondent was further ordered to pay restitution to Medicare in the amount of \$4,114,477.60.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct)**


26 12. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)
27 on the grounds of unprofessional conduct in that Respondent's actions, as more fully set forth in
28 paragraph 11, above, constitute unprofessional conduct per se.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Revoking or suspending Registered Nurse License Number 343237, issued to
5 Lualhati Z. Colgrove, aka Lualhati Zerna Colgrove;
6 2. Ordering Respondent Lualhti Z. Colgrove to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3; and
9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: March 21, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant